

## **REMARKS**

### **I. Introduction**

Claims 1-17 are now pending in the present application. Claim 14 has been amended. Applicant hereby respectfully requests further examination and reconsideration of the application.

Applicant notes with appreciation the acknowledgment of the claim for foreign priority, and the indication that all certified copies of the priority documents have been received.

Applicant thanks the Examiner for considering the previously filed Information Disclosure Statement, PTO 1449 paper and cited references.

### **II. Objection to Claim 14**

In response to the Examiner's objection to claim 14 because of an informality, Applicant has amended claim 14. The amendment obviates the objection.

### **III. Objection to the Specification**

In response to the Examiner's objection to the specification, Applicant has amended the abstract to be no more than 150 words. The amendment obviates the objection.

### **IV. Rejection of Claims 1-17 under 35 U.S.C. § 102(b)**

Claims 1-17 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,564,907 ("Mouri"). Applicants respectfully submit that the rejection should be withdrawn for at least the following reasons.

In order to reject a claim under 35 U.S.C. § 102(b), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See Akzo, N.V. v. U.S.I.T.C., 1

U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)). To the extent that the Examiner may be relying on the doctrine of inherent disclosure, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherence of that result or characteristic.

Claim 1 recites, in relevant parts, “**subdividing the computer program into a plurality of functionally linked functionalities; defining possible operating states for the functionalities; defining possible system states of the system; allocating specifiable operating states to the functionalities for each system state; ascertaining dependencies of the functionalities on one another, a first functionality being dependent upon a second functionality if at least one input variable of the first functionality is ascertained in the second functionality; and centrally specifying the operating states required for a certain system state, taking into consideration the ascertained dependencies among the functionalities and further boundary conditions.**” Claims 14 and 16 recite substantially similar features as the above-recited features of claim 1. As explained in detail below, the apparatus and method referred to by Mouri have nothing to do with the present invention.

First, Mouri does not disclose or suggest “**subdividing the computer program into a plurality of functionally linked functionalities**”; instead, Mouri only refers to tasks, which do not necessarily correspond to the functionalities of a computer program. Rather, it is well possible that a certain functionality is performed by a plurality of tasks and, on the other hand, that a single task comprises more than one functionality. Further, Mouri does not disclose or suggest any functional linking, but instead only refers to tasks grouped in terms of priority level and ordered in terms of priority within each group.

Second, Mouri does not disclose or suggest “**defining possible operating states for the functionalities.**” The only states referred to by Mouri are those shown in Figure 14: IDLE, QUEUE, RUN, and READY. These states do not correspond to the operating states for the functionalities as presently claimed. As discussed above, the tasks referred to by

Mouri do not correspond to functionalities. Further, the task states referred to by Mouri do not correspond to **operating states for functionalities**. The task states only indicate the **status** of each task at any particular time. The task states have nothing at all to do with the **operation** of the tasks. In the method referred to by Mouri, each task takes one of the four task states. In contrast, the method of the present invention **defines possible operating states for the functionalities**. These **operating states** do not monitor the **status** of the functionalities; instead, these **operating states** define the possible states of **operation** for the functionalities.

Third, Mouri does not disclose or suggest “**defining possible system states of the system.**” The only states referred to by Mouri are those shown in Figure 14: IDLE, QUEUE, RUN, and READY. These states do not correspond to **possible system states of the system**. The states referred to by Mouri are **states of the tasks**. Each of the tasks necessarily takes one of the states. Therefore, these states cannot possibly represent **system states of the system**.

Mouri also refers to interrupt requests and activation requests, but neither of these requests can possibly disclose or suggest **defining possible operating states for the functionalities or defining possible system states of the system**.

Fourth, Mouri does not disclose or suggest “**allocating specifiable operating states to the functionalities for each system state.**” As discussed above, Mouri does not disclose or suggest **operating states, system states, or functionalities**. Further, Mouri clearly does not disclose or suggest **allocating specifiable operating states to the functionalities for each system state**. In rejecting this claim feature, the Examiner cites Mouri at col. 12 and 13, lines 48-24. This section merely refers to the task states IDLE, QUEUE, RUN, and READY. As discussed above, these task states have nothing to do with **operating states**. Accordingly, Mouri does not disclose or suggest “**allocating specifiable operating states to the functionalities for each system state.**”

Fifth, Mouri does not disclose or suggest “**ascertaining dependencies of the functionalities on one another, a first functionality being dependent upon a second functionality if at least one input variable of the first functionality is ascertained in the second functionality.**” In rejecting this claim feature, the Examiner cites Mouri at col. 9 and 10, lines 34-34. This section merely refers to the processing of various tasks. Mouri never refers to **any dependencies** and never refers to **ascertaining any dependencies**. Further,

Mouri never refers to any **input variables**. Therefore, Mouri does not disclose or suggest **“ascertaining dependencies of the functionalities on one another, a first functionality being dependent upon a second functionality if at least one input variable of the first functionality is ascertained in the second functionality.”**

Sixth, Mouri does not disclose or suggest **“centrally specifying the operating states required for a certain system state, taking into consideration the ascertained dependencies among the functionalities and further boundary conditions.”** As discussed above, Mouri does not disclose or suggest **functionalities, operating states, system states, nor dependencies**. Further, Mouri does not disclose or suggest **centrally specifying any states**.

Fundamentally, Mouri has nothing to do with the present invention. The method according to the present invention does not control the execution of the computer program during runtime of the computer program by interfering into the execution of the computer program. Rather, according to the present invention, the execution of the computer program is controlled by means of preliminary action, which is performed before the actual execution of the computer program. The preliminary action has a decisive influence on the subsequent execution of the computer program. In stark contrast, the method described in Mouri refers to controlling the execution of a computer program by interfering into the actual execution of the computer program during runtime. Mouri does not disclose or suggest taking any kind of preliminary action in order to influence the subsequent execution of the computer program.

For at least the foregoing reasons, claims 1, 14 and 16, as well as their dependent claims 2-13, 15 and 17, are allowable over Mouri. Withdrawal of the rejection is respectfully requested.

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**Conclusion**

In view of the foregoing, it is respectfully submitted that pending claims 1-17 are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,

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